



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Utah State Office
P.O. Box 45155
Salt Lake City, UT 84145-0155
www.ut.blm.gov

5/015/093

IN REPLY REFER TO:
3809
(U-070)
UTU- 79570

NOV 29 2005

CERTIFIED MAIL #7004 2510 0005 4746 9903
RETURN RECEIPT REQUESTED

DECISION

Jerome L. Bown	:	Additional Information Required
93 West 300 South	:	3809.401(b)(1)
Manti, Utah 84642	:	3809.401(b)(2i)(2vii)(2viii)

On August 22, 2005 we received your Plan of Operations to commence mining flagstone at the Desert Sienna claim. We have assigned the following serial number UTU-79570 to you proposal. Please refer to this number in any future correspondence regarding this mining activity.

Through our review, we find that your plan does not contain a complete description of the proposed operations under Section 3809.401(b). Before we can move forward, we ask you to provide the following items (refer to enclosed requirements for Plan of Operations):

- You need to provide your taxpayer ID (3809.401(b)(1)).
- The BLM serial number of the claim (3809.401(b)(1)).
- A more detailed map of the mine site with the following information: location of proposed stockpiles, topsoil, overburden, and the waste rock that will be used for reclamation, the general shape of the excavated areas, and the sequence; how you intend to move from one five acre segment to another until all 80-acres are mined. (Schedule of Operations from start to closure). (3809.401(b)(2i) and (3809.401(b)(2vii)).
- In your plan you state "Access will be on existing use roads. With only slight improvements on necessary spots, mainly to prevent rutting". Explain which access road needs slight improvements and where, and describe how improvements will be made, and what kind of equipment you plan to use. (3809.401(b)(2viii)).

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DIV. OF OIL, GAS & MINING

- Provide the size and type of excavator and wheel loader that will be used on site.
- A description of how the processing pad will be constructed. For example the cuts and fills needed for construction.
- Describe where trucks transporting rock off-site will be loaded.
- Describe what kind of road will be constructed between the active portion of the mine and the processing pad and how this will change through mining the different sections of your claim.
- Describe on-site storage of any equipment, tools and fuels that will be used on site, and provide a description of how equipment will be re-fueled, and the safeguards to prevent spills.
- Describe how the active workings (benches, pits and or highwalls) will be secured during periods when the mine is not in operation.

Once the BLM receives a complete Plan of Operations, we will conduct an environmental analysis that will analyze the effects of the proposal, and to ensure that the operation will not cause undue degradation of the environment.

Financial Guarantee

A preliminary determination on the flagstone within the Desert Sienna claims is that the material is common variety sandstone. In order to remove material you are required to submit a financial guarantee to cover the cost of 100% of the reclamation on your claim. Your financial guarantee estimate of \$5,000 for the first acre of disturbance and \$3,000 for each additional acre is not high enough. The financial guarantee must cover the full cost should the BLM have to hire a third party to reclaim the site. Once we receive your revised Plan of Operations, the BLM will coordinate with the Utah Division of Oil, Gas and Mining to establish a financial guarantee amount.

Also, because you claim that the deposit is locatable the current regulations under 43 CFR 3809.101 shall apply. The BLM will conduct a mineral exam to establish whether or not flagstone on your claim is of common variety or locatable. This could take up to two years to process. Until the mineral examination report is prepared, the BLM can provide an interim authorization to remove the possible common variety minerals through the approval of a Plan of Operations (43 CFR 3809.101 b (3)) and if you establish an escrow account in a form acceptable to the BLM. You must make regular payments to the escrow account for the appraised value of possible common variety minerals removed under a payment schedule approved by BLM. The funds in the escrow account may not be disbursed to the operator or the U.S. Treasury until a final determination of whether the mineral is a common variety and therefore salable under part 3600 of this title.

If the mineral examination report concludes that the minerals are common variety minerals, you may either relinquish the mining claim, or the BLM will initiate contest proceedings. Upon relinquishment or final departmental determination that the mining claim is null and void, you

must promptly close and reclaim your operations unless you are authorized to proceed under parts 3600 and 3610 of 43 CFR.

Because this operation is considered mining and until a common variety or locatable determination is made, a copy of your Plan of Operations has been sent to the State Division of Oil, Gas and Mining for approval.

Appeal

If you do not agree and are adversely affected by this decision, in accordance with 43 CFR 3809.804, you may request that the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in 43 CFR 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision your request for review of this decision within 21 days of BLM's receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Utah BLM State Office to determine when BLM receives the request for State Director Review. You have 30 days from the end of the 21 day period in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to bypass a State Director review, this decision may be appealed directly to the IBLA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office, Price Field Office, 125 South 600 West, Price, Utah within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,

2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

If you do not agree with our reclamation cost estimate, please provide information demonstrating the error(s). This information must be submitted within 30 days of receipt of this decision. If you have any questions concerning what activity is allowed then please contact Rebecca Doolittle at (435) 636-3615.

Sincerely,



Fred O'Ferrall
Associate Field Manager

Enclosures:

Requirements for Plan of Operations

cc: ✓ Paul Baker, DOGM

Information Required in a Plan of Operations (43 CFR 3809.401)

Sec. 3809.401 Where do I file my plan of operations and what information must I include with it?

A. If you are required to file a plan of operations under Sec. 3809.11, you must file it with the local BLM field office with jurisdiction over the lands involved. BLM does not require that the plan be on a particular form. Your plan of operations must demonstrate that the proposed operations would not result in unnecessary or undue degradation of public lands.

B. Your plan of operations must contain the following information and describe the proposed operations at a level of detail sufficient for BLM to determine that the plan of operations prevents unnecessary or undue degradation:

1. Operator Information. The name, mailing address, phone number, taxpayer identification number of the operator(s), and the BLM serial number(s) of any unpatented mining claim(s) where disturbance would occur. If the operator is a corporation, you must identify one individual as the point of contact. You must notify BLM in writing within 30 calendar days of any change of operator or corporate point of contact or in the mailing address of the operator or corporate point of contact;

2. Description of Operations. A description of the equipment, devices, or practices you propose to use during operations including, where applicable—

- a. Maps of the project area at an appropriate scale showing the location of exploration activities, drill sites, mining activities, processing facilities, waste rock and tailing disposal areas, support facilities, structures, buildings, and access routes;
- b. Preliminary or conceptual designs, cross sections, and operating plans for mining areas, processing facilities, and waste rock and tailing disposal facilities;
- c. Water management plans;
- d. Rock characterization and handling plans;
- e. Quality assurance plans;
- f. Spill contingency plans;
- g. A general schedule of operations from start through closure;
- h. Plans for all access roads, water supply pipelines, and power or utility services;

3. Reclamation Plan. A plan for reclamation to meet the standards in Sec. 3809.420, with a description of the equipment, devices, or practices you propose to use including, where applicable, plans for—

- a. Drill-hole plugging;

- b. Regrading and reshaping;
- c. Mine reclamation, including information on the feasibility of pit backfilling that details economic, environmental, and safety actors;
- d. Riparian mitigation;
- e. Wildlife habitat rehabilitation;
- f. Topsoil handling;
- g. Revegetation;
- h. Isolation and control of acid-forming, toxic, or deleterious materials;
- i. Removal or stabilization of buildings, structures and support facilities;
- j. Post-closure management;

4. Monitoring Plan. A proposed plan for monitoring the effect of your operations.

You must design monitoring plans to meet the following objectives: To demonstrate compliance with the approved plan of operations and other Federal or State environmental laws and regulations, to provide early detection of potential problems, and to supply information that will assist in directing corrective actions should they become necessary. Where applicable, you must include in monitoring plans details on type and location of monitoring devices, sampling parameters and frequency, analytical methods, reporting procedures, and procedures to respond to adverse monitoring results. Monitoring plans may incorporate existing State or other Federal monitoring requirements to avoid duplication. Examples of monitoring programs which may be necessary include surface- and ground-water quality and quantity, air quality, revegetation, stability, noise levels, and wildlife mortality; and

5. Interim management plan. A plan to manage the project area during periods of temporary closure (including periods of seasonal closure) to prevent unnecessary or undue degradation. The interim management plan must include, where applicable, the following:

- a. Measures to stabilize excavations and workings;
- b. Measures to isolate or control toxic or deleterious materials (See also the requirements in Sec. 3809.420(c)(12)(vii).);
- c. Provisions for the storage or removal of equipment, supplies and structures;
- d. Measures to maintain the project area in a safe and clean condition;
- e. Plans for monitoring site conditions during periods of non-operation; and
- f. A schedule of anticipated periods of temporary closure during which you would implement the interim management plan, including provisions for notifying BLM of unplanned or extended temporary closures.

C. In addition to the requirements of paragraph (B) of this section, BLM may require you to supply—

- 1. Operational and baseline environmental information for BLM to analyze potential environmental impacts as required by the National Environmental Policy Act and to determine if your plan of operations will prevent

unnecessary or undue degradation. This could include information on public and non-public lands needed to characterize the geology, paleontological resources, cave resources, hydrology, soils, vegetation, wildlife, air quality, cultural resources, and socioeconomic conditions in and around the project area, as well as information that may require you to conduct static and kinetic testing to characterize the potential for your operations to produce acid drainage or other leachate. BLM is available to advise you on the exact type of information and level of detail needed to meet these requirements; and

2. Other information, if necessary to ensure that your operations will comply with this subpart.
- D. Reclamation cost estimate. At a time specified by BLM, you must submit an estimate of the cost to fully reclaim your operations as required by Sec. 3809.552. BLM will review your reclamation cost estimate and notify you of any deficiencies or additional information that must be submitted in order to determine a final reclamation cost. BLM will notify you when we have determined the final amount for which you must provide financial assurance.